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MAIL

Paper No. 15

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JUL 30 2003  
DIRECTOR OFFICE  
TECHNOLOGY CENTER 2100

In re Application of: Keller et al. )  
Application No. 09/399281 )  
Attorney Docket No. 5500-48300 ) DECISION ON PETITION TO  
Filed: September 17, 1999 ) WITHDRAW HOLDING OF  
For: VIRTUAL CHANNELS AND ) ABANDONMENT UNDER 37 CFR §  
CORRESPONDING BUFFER ) 1.181(a)  
ALLOCATIONS FOR DEADLOCK-FREE )  
COMPUTER SYSTEM OPERATION )  
)

This is a decision on the petition filed June 2, 2003 to withdraw the holding of abandonment under 37 CFR § 1.181(a). The petition is being considered under 37 CFR § 1.8 as requesting the acceptance of correspondence as timely filed.

**BACKGROUND**

Aug 8, 2002                      Final rejection mailed (Paper No. 9)  
  
Nov 15, 2002                    Notice of appeal and after final response filed (Paper Nos. 10, 11)  
  
Dec 3, 2002                     Advisory action mailed (Paper No. 12)  
  
May 19, 2003                    Notice of abandonment mailed (Paper No. 13)

**ISSUES**

The practitioner states he has submitted a copy of the originally submitted appeal brief, amendment and other papers filed on Dec 18, 2002, and a statement of personal knowledge from Mr. Merkel has also been provided. Mr. Merkel states no return postcard was received from the USPTO.

**DECISION**

The documents provided by the practitioner do *not* include a copy of the papers submitted on Dec 18, 2002. The filing only included the statement from Mr. Merkel along with the petition.

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence can be considered timely filed if petitioners meet at least three conditions:

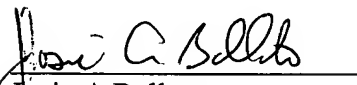
*Application No. 09/399,281*  
*On petition*

1. Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
3. Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.  
[Emphasis added.]

The practitioner needs to submit an additional copy of the original filing (to include the appeal brief in triplicate if that was part of the original submission) along with a certificate of mailing if one was used.

Accordingly, the petition is **DISMISSED**.

If the petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at 703-308-0269.

  
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Josie A Ballato  
Special Program Examiner  
Technology Center 2100  
Computer Architecture, Software, and Information Security